



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to:

OSB2000-0124-EC

April 4, 2001

Ms. Elaine Zielinski
State Director, OR/WA
USDI Bureau of Land Management
1515 SW Fifth Avenue
Portland, Oregon 97201

Mr. Harv Forsgren
Regional Forester, Region 6
USDA Forest Service
333 SW First Avenue
Portland, Oregon 97208-3623

Re: Essential Fish Habitat Consultation for Three Programmatic Biological Opinions for Bureau of Land Management, National Forests, and National Scenic Area Lands within the Oregon Coast, Lower Columbia River, and Willamette River Provinces of Oregon

Dear Ms. Zielinski and Mr. Forsgren:

This responds to your agencies' joint letter of February 1, 2001, requesting Essential Fish Habitat (EFH) consultation on the effects of the three programmatic biological opinions for Bureau of Land Management, National Forest, and National Scenic Area (Action Agencies) lands within the Oregon Coast, Lower Columbia River, and Willamette River Provinces (Provinces) of Oregon. This consultation is pursuant to the Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSA). The EFH discussions in this letter are based on our review of the information provided by the Action Agencies.

In 1999, the National Marine Fisheries Service (NMFS) issued Biological Opinions (Opinions) for the actions on June 3 (Lower Columbia River Province) (NMFS 1999a), June 4 (Oregon Coast Province) (NMFS 1999b), and July 28 (Willamette Province) (NMFS 1999c), which did not include EFH consultation (Table 1). The corresponding conference opinions on proposed critical habitat were adopted by the NMFS as biological opinions on designated critical habitat on June 5, 2000 (NMFS 2000). Designation of EFH for Pacific salmon had not occurred at the time of these ESA consultations. The Action Agencies determined these programmatic actions could adversely affect coho salmon (*Oncorhynchus kisutch*) and chinook salmon

(*O. tshawytscha*) EFH. While the Action Agencies did not address groundfish nor coastal pelagic EFH, NMFS is not aware of any agency lands where the activities included in this consultation might result in adverse affects to these habitats. Consequently, consultation on the effects of these actions on EFH for those salmon species only is being conducted at this time. Detailed project descriptions and effects analyses for the project included in this consultation can be found in the subject Opinions (NMFS 1999a, NMFS 1999b, NMFS 1999c) and supporting biological assessments, and are fully applicable in this EFH consultation.

Table 1. List of geographic areas and corresponding administrative units and ESUs for which the Opinions apply.

GEOGRAPHIC AREA	ADMINISTRATIVE UNITS	ESU
Lower Columbia River ¹	Mt. Hood National Forest Gifford Pinchot National Forest Columbia River Gorge National Scenic Area Salem District BLM	Upper Will. Riv. chinook Lower Col. Riv. chinook Lower Col. Riv. steelhead Lower Col. Riv. chum SW Washington/Col. Riv. coho SW Washington/Col. Riv. cutthroat trout
North Oregon Coast ²	Siuslaw National Forest Eugene District BLM Salem District BLM	Oregon Coast coho salmon
Upper Willamette ³	Willamette National Forest Siuslaw National Forest Mt. Hood National Forest Eugene District BLM Salem District BLM	Upper Will. Riv. steelhead Upper Will. Riv. chinook

¹ NMFS 1999a

² NMFS 1999b

³ NMFS 1999c

The Action Agencies in their February 1, 2001, letter also referred to a second category of actions which were determined to not adversely affect coho salmon and chinook salmon EFH. Therefore, EFH consultation is not necessary for these actions and are not addressed in this consultation.

1.0. Magnuson-Stevens Fishery Conservation and Management Act

EFH provisions of the Magnuson-Stevens Act (MSA) require heightened consideration of a fish habitat in resource management decisions. EFH is defined in the section 3 of the MSA as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The NMFS

interprets EFH to include aquatic areas and their associated physical, chemical and biological properties used by fish that are necessary to support a sustainable fishery and the contribution of the managed species to a healthy ecosystem.

The MSA and its implementing regulations at 50 CFR 600.920 (j) require that before a Federal agency may authorize, fund or carry out any action that may adversely effect EFH, it must consult with NMFS and, if requested, the appropriate Regional Fishery Management Council. The purpose of consultation is to develop a conservation recommendation that addresses all reasonably foreseeable adverse effects to EFH. Further, the action agency must provide a detailed response in writing to NMFS and the appropriate Council within 30 days after receiving an EFH conservation recommendation. The response must include measures proposed by the agency to avoid, minimize, mitigate, or offset the impact of the activity on EFH. If the response is inconsistent with conservation recommendations of NMFS, the agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, or mitigate such effects.

This consultation requirement does not distinguish between actions which occur within EFH and actions outside EFH. Any reasonable attempt to encourage the conservation of EFH must take into account actions that occur outside EFH, such as upstream and up slope activities that may have an adverse effect on EFH. Therefore, EFH consultation with NMFS is required by Federal agencies undertaking, permitting or funding activities that may adversely affect EFH, whatever its location.

2.0. Identification of EFH

The Pacific Fisheries Management Council (PFMC) has designated EFH for federally-managed fisheries within the waters of Washington, Oregon, and California. The designated EFH for groundfish and coastal pelagic species encompasses all waters from the mean high water line, and upriver extent of saltwater intrusion in river mouths, along the coasts of Washington, Oregon and California, seaward to the boundary of the U.S. exclusive economic zone (200 miles)(PFMC 1998a, 1998b). Freshwater EFH for Pacific salmon includes all those streams, lakes, ponds, wetlands, and other water bodies currently, or historically accessible to salmon in Washington, Oregon, Idaho, and California, except areas upstream of certain impassable man-made barriers (as identified by the PFMC), and longstanding, naturally-impassable barriers (i.e., natural waterfalls in existence for several hundred years) (PFMC 1999). In estuarine and marine areas, designated salmon EFH extends from the nearshore and tidal submerged environments within PFMC is one of eight Regional Fishery Management Councils established under the Magnuson-Stevens Act. The PFMC develops and carries out fisheries management plans for Pacific coast groundfish, coastal pelagic species and salmon off the coasts of Washington, Oregon and California, and recommends Pacific halibut harvest regulations to the International Pacific Halibut Commission.

Pursuant to the MSA, the PFMC has designated freshwater and marine EFH for chinook and coho salmon (PFMC 1999), EFH for five species of coastal pelagic species (PFMC 1998a), and a "composite" EFH for 62 species of groundfish (PFMC 1998b). For purposes of this consultation, freshwater EFH for chinook and coho salmon in Oregon includes all streams, lakes, ponds, wetlands, and other water bodies currently or historically accessible to chinook or coho salmon, except upstream of the following impassable dams: Opal Springs, Big Cliff, Cougar, Dexter, Dorena, Soda Springs, Lost Creek, Applegate, Bull Run, Oak Grove, and the Hells Canyon Complex. In the future, should subsequent analyses determine the habitat above any of these dams is necessary for salmon conservation, the PFMC will modify the identification of Pacific salmon EFH (PFMC 1999). Marine EFH for chinook and coho salmon in Oregon includes all estuarine, nearshore and marine waters within the western boundary of the U.S. Exclusive Economic Zone (EEZ), 200 miles offshore. EFH for coastal pelagic species and composite EFH for groundfish in Oregon includes all waters, substrates and associated biological communities from the mean higher high water line, the upriver extent of saltwater intrusion in river mouths, and along the coast extending westward to the boundary of the EEZ.

3.0. Proposed Actions

The subject Opinions addressed the following programmatic actions: 1) Road maintenance; 2) aquatic habitat projects; 3) trail maintenance and construction; 4) meadow maintenance (Oregon Coast Province only); 5) road decommissioning and obliteration; 6) repair of storm damaged roads; 7) near-stream and instream surveys; 8) environmental education with instream activities; 9) pump chances; 10) firewood collection (Oregon Coast and Willamette Provinces only); 11) public use of developed sites and dispersed public use; 12) developed boat ramps; 13) non-riparian rock quarries; 14) ski area operations (Lower Columbia River Province only); and 15) infrastructure maintenance; and 16) recreating on surface waters (Lower Columbia River and Willamette Provinces only).

The proposed actions are programmatic, meaning that each category of actions may include a number of individual actions, which, when grouped together, represent a program. Since the individual actions may occur at many individual sites across the landscape (e.g., conifer stand development), on a routine basis (e.g., road maintenance), or sporadically (e.g., requests for road use permits), the Level-1 team felt that these kinds of actions should be assessed programmatically. The programmatic actions included several aspects to minimize or mitigate impacts for each action category.

The following are descriptions of each programmatic action.

1) Road Maintenance

These activities are designed to maintain safety and control, and prevent road erosion and sedimentation. This category includes any road maintenance activities using heavy equipment, including: surface maintenance (grading, leveling); drainage maintenance and repair; vegetation management (brushing, limbing, seeding, and mulching); hauling waste or fill for road surfaces or ditches; surface

replacement (paving, repaving, chip-sealing, and rocking); small tree or slide removal; snowplowing; dust abatement; and maintenance and repair of structures (relief or channel culverts, bridges). Road maintenance due to storm events such as small slide removal and stabilization or culvert and drainage repair is performed as emergencies arise.

2) Aquatic Habitat Projects

Aquatic habitat projects are completed to restore spawning, rearing, and migratory conditions in streams and lakes. They are constructed or created within the stream channel or the immediate floodplain to improve aquatic habitat, channel stability, or fish passage, and the maintenance thereof. Projects include the placement of large woody debris (LWD; whole trees or portions of trees), boulders and gravel into the channel, excavation of side channels and alcoves, and stream bank and channel stabilization (does not include riprap). Project access roads are rehabilitated with techniques which include seeding, waterbars, ripping and blocking. Passage improvements include the replacement of barrier culverts with passable culverts, pipe-arches or bridges; construction of fish ladders and placement/construction of sills (boulder, wood, concrete) to improve access to culverts. Work may be accomplished using manual labor, heavy equipment, or helicopters and may involve the use of this equipment in the stream channel.

3) Trail Maintenance and Construction

Trail maintenance is implemented to improve safety, prevent erosion, and prevent damage to resources. Trails are constructed in response to recreational use. This category covers trails which are primarily for hiking or equestrian use. Trail maintenance and reconstruction of existing trails involves actions such as removing leaning and down trees from the trail, diverting erosive water off trails (e.g. waterbars, drain dips, culverts), repair of erosion sites (addition of gravel or logs in wet sites), construction/improvements to stream crossings, brushing, improving the tread, and constructing and maintaining rock crib walls to support unstable trail sections. Trail construction includes new trails outside the stream influence zone and the relocation or extension of existing trails. This category does not include actions which are not directly related to the repair or construction of trails or trail stream crossings. It does not include maintenance or construction of trails for motorcycle/OHV use, nor the use of riprap.

4) Meadow Maintenance (Oregon Coast Province)

This is done in limited, localized areas, mainly to enhance food resources and habitat for elk. Meadows, some of which are adjacent to streams, are maintained in early seral stages by mowing and burning.

5) Road Decommissioning and Obliteration

This category includes the removal of those elements of a road that reroute hillslope drainage and present slope stability hazards from unnecessary, unstable, or poorly located roads. It also includes dispersed recreation campsite removal. This category includes actions such as bridge and culvert removal, removal of asphalt and gravel, subsoiling of road surfaces, outsloping, waterbarring, fill

removal, sidecast pullback, revegetating with native or non-evasive, non-native species, and roadway barricading to exclude vehicular traffic.

6) Repair of Storm Damaged Roads

These projects are implemented to maintain safety, open access, and prevent further damage to resources resulting from storm related damage to roads. Projects involve actions such as the removal of large slides; reconstruction, repair or relocation of roads damaged by surface erosion, high streamflows, fill failure, culvert failure and landslides; stabilization of slopes; and the repair or replacement of bridges and culverts. Work is accomplished using heavy equipment and may occur in the wet season and may involve work in stream channels.

7) Nearstream and Instream Surveys

Surveys are conducted to assess stream condition, fish, aquatic invertebrate populations, and plant, wildlife, and other resources in adjacent riparian areas. It does not include direct capture (traps, seines, gill nets, etc.) or electrofishing. The action consists of walking surveys conducted in and near streams, and includes aquatic habitat inventory, and fish, botany, mollusk, amphibian, cultural resource (including test pits approximately 1 square meter in size), and riparian vegetation surveys and monitoring. A near stream survey refers to surveys done on stream banks or within 25 feet of stream reaches with listed fish species. This category includes snorkeling and spawning surveys.

8) Environmental Education with Instream Activities

This category entails programs to teach people about the life histories and importance of salmon and other aquatic organisms. It includes programs such as Salmon Watch, which takes classes of school children to look at spawning salmon and to participate in other activities like collecting macroinvertebrates and measuring water quality in and along the stream.

9) Pump Chances

This category entails maintenance and use of sites for water withdrawal during prescription burns, emergency fire conditions, or road maintenance. Access to pump chances is maintained by removing brush from trails to access points, trees from helicopter loading sites and the installation of boulders (or similar) to increase pool depth. Most pump chances are located on fish bearing streams, although typically water for fire is not withdrawn in a given year because of little fire activity. Withdrawals are for fire control, dust abatement, and compacting gravel roads.

10) Firewood Collection (Oregon Coast and Willamette Provinces)

Firewood collection allows members of the public to cut and haul away waste wood from landings, blown down conifers, and live or down alder along roads. Permits are issued for both commercial and noncommercial purposes, and are often issued to allow legal removal of logs lying close to roads before they are stolen.

11) Public Use of Developed Sites and Dispersed Public Use

This allows access to and use of public lands for recreation. Developed recreation sites include campgrounds, day use areas, and interpretive sites. Dispersed public use includes the use of Federal lands for short term camping, fishing, hunting, hiking, boating, wildlife watching, and similar activities other than in developed facilities. This category does not include the development of new sites.

12) Developed Boat Ramps

This allows lake or river access for purpose of recreating on surface waters. This category includes maintenance and use of developed boat ramps for loading and unloading boats by hand or from trailers, and associated staging and parking areas, docking facilities, and other developments such as picnic or sanitation facilities. This programmatic category does not include the role of developed boat ramps in harvesting of listed species nor the development of new sites.

13) Non-Riparian Rock Quarries

Activities in this category provide a source of rock and gravel for use in road construction and maintenance, and for other activities such as restoration projects. Activities include drilling, blasting, crushing, hauling of materials on new or existing roads, and storing of waste material from landslides or decommissioned roads. It does not include the development of new sites.

14) Ski Area Operations (Lower Columbia River Province)

This category includes parking lot and road sanding, plowing, snowblowing, brushing of runs by mechanical and hand means; building, lift, tow rope and equipment maintenance, and access road and trail maintenance. Each area has an operating plan which includes erosion control and hazardous waste plans. This consultation does not include expansion of infrastructure or salting to maintain snow conditions or Oregon Department of Transportation sanding, plowing, and blowing operations.

15) Infrastructure Maintenance

This is the maintenance of infrastructure improvements in Riparian Reserves for use by the public and for administrative purposes. This includes the routine maintenance of developments such as campgrounds, interpretive sites, education sites, storage areas, administrative sites, and similar improvements. Maintenance may include activities such as pruning of brush and trees, operation of sewage facilities, maintaining roads and other surfaces, maintaining buildings, streambank stabilization (does not include additional areas of riprap) and operation of sanitary facilities using hand tools and power equipment. It does not include the development of new sites.

16) Recreating on Surface Waters (Lower Columbia River and Willamette Provinces)

This category includes the issuance of Special Use Permits, allows for white water rafting, kayaking, and canoeing, and access to USFS/BLM lands for these purposes. Outfitters conduct tours on streams during high flows. These activities typically occur during May.

4.0. Effects of Proposed Action

The Action Agencies determined that the subject programmatic actions could adversely affect coho and chinook salmon EFH. The NMFS concludes that the effects of these actions on designated EFH are likely to be within the range of effects considered in the Opinions (NMFS 1999a, NMFS 1999b, NMFS 1999c) and concurs with the Action Agencies finding that the programmatic actions could adversely affect EFH designated for Pacific salmon (chinook and coho salmon).

5.0. Conservation Recommendations

The conservation measures that the Action Agencies included as part of the proposed actions are adequate to minimize adverse impacts from this project to designated EFH for salmon. It is NMFS' understanding that the Action Agencies intend to implement the proposed activities with these built-in conservation measures that minimize potential adverse effects to the maximum extent practicable. Consequently, NMFS has no additional conservation recommendations to make at this time.

6.0. Statutory Response Requirement

According to the Magnuson-Stevens Act (§305(b)), a Federal Action Agency must provide a detailed, written response to NMFS within 30 days after receiving EFH conservation recommendation. The response must include a description of measures proposed by the Action Agency to avoid, minimize, mitigate or offset the impact of the activity on EFH. If the response is inconsistent with a conservation recommendation from NMFS, the agency must explain its reasons for not following the recommendation. However, since NMFS did not provide conservation recommendations for the above proposed actions, a written response to this consultation is not necessary.

7.0. Consultation Renewal

The Action Agencies must initiate EFH consultation with NMFS if the proposed actions are substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations (50 CFR §600.920).

Thank you for your effort to protect coho and chinook salmon habitat. If you have any questions concerning these comments, please contact Rob Markle of my staff in the Oregon State Branch Office at 503.230.5419.

Sincerely,

Michael R. Crouse
f.c.

Donna Darm
Acting Regional Administrator

cc: Gloria Brown, Siuslaw National Forest
Darrell Kenops, Willamette National Forest
Gary Larsen, Mt. Hood National Forest
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Denis Williamson, Salem BLM
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Oregon.PFMC (Pacific Fishery Management Council). 1999. *Amendment 14 to the Pacific Coast Salmon Plan*. Appendix A: Description and Identification of Essential Fish Habitat, Adverse Impacts and Recommended Conservation Measures for Salmon. Portland,